

**CHAPTER 32****STATE BOARD OF EXAMINERS  
OF MASTER PLUMBERS****Authority**

N.J.S.A. 45:14C-7.

**Source and Effective Date**

R.2003 d.165, effective March 28, 2003.  
See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

**Chapter Expiration Date**

Chapter 32, State Board of Examiners of Master Plumbers, expires on March 28, 2008.

**Chapter Historical Note**

Chapter 32, State Board of Examiners of Master Plumbers, was adopted and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 32 was readopted as R.1987 d.481, effective October 23, 1987. See: 19 N.J.R. 1630(a), 19 N.J.R. 2197(c).

Pursuant to Executive Order No. 66(1978), Chapter 32 was readopted as R.1992 d.457, effective October 21, 1992. See: 24 N.J.R. 2334(a), 24 N.J.R. 4270(b). As part of R.1992 d.457, effective November 16, 1992, Subchapter 2, regarding a "uniform penalty letter," was repealed and Subchapter 2, Fees, was adopted as new rules.

Pursuant to Executive Order No. 66(1978), Chapter 32 was readopted as R.1997 d.456, effective October 8, 1997. As part of R.1997 d.456, effective November 3, 1997, Subchapter 1, General Rules and Regulations, was renamed Purpose and Scope, Board Meetings; Subchapter 2, Fees, was recodified as Subchapter 5, Fees; and Subchapter 2, Application, Experience Requirements, Examination; Subchapter 3, Identification of Licensees; Bona Fide Representative; Supervision; and Subchapter 4, Miscellaneous, were adopted as new rules. See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Subchapter 6, Continuing Education, was adopted as R.2002 d.80, effective March 18, 2002. See: 33 N.J.R. 3731(a), 34 N.J.R. 1266(a).

Chapter 32, State Board of Examiners of Master Plumbers, was readopted as R.2003 d.165, effective March 28, 2003. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. PURPOSE AND SCOPE, BOARD  
MEETINGS****13:32-1.1 Purpose and scope**

The rules contained in this chapter implement the provisions of the State Plumbing Licensing Law (N.J.S.A. 45:14C-1 et seq.) and provide for the licensing and regulation of master plumbers and the regulation of plumbing contractors.

Repeal and New Rule, R.1987 d.481, effective November 16, 1987.  
See: 19 N.J.R. 1630(a), 19 N.J.R. 2197(c).

Old text replaced.

New Rule, R.1997 d.456, effective November 3, 1997.  
See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Former N.J.A.C. 13:32-1.1, "Board Meetings" recodified to N.J.A.C. 13:32-1.2.

Amended by R.2001 d.12, effective March 3, 2001.

See: 31 N.J.R. 3984(a), 33 N.J.R. 56(a).

Inserted "and regulation" preceding "of master plumbers" and substituted "and the regulation of plumbing contractors" for "and qualified journeymen".

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

Deleted "of 1968, P.L. 1978, c.362" following "State Plumbing Licensing Law"; revised the N.J.S.A. reference.

**13:32-1.2 Board meetings**

(a) Regular Board meetings shall be held in accordance with a schedule that is published yearly and filed with the Secretary of State.

(b) Special meetings may be held at the request of a Board member or called by the chairman with publication of appropriate notice pursuant to the requirements of the Open Public Meetings Act.

(c) A majority of the voting members of the Board shall constitute a quorum thereof and no action of the Board shall be taken except on the affirmative vote of a majority of the members of the entire Board.

(d) In the absence of the chairman, members shall select one of the members attending the meeting to serve as chairman for that meeting.

(e) Copies of the minutes of meetings shall be mailed to all members as soon as practicable after each meeting.

Repeal and New Rule, R.1987 d.481, effective November 16, 1987.

See: 19 N.J.R. 1630(a), 19 N.J.R. 2197(c).

Old text replaced.

Recodified from N.J.A.C. 13:32-1.1 by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Former N.J.A.C. 13:32-1.2, "Application; qualifications; examination registration form" recodified to N.J.A.C. 13:32-2.1.

#### Case Notes

Remand to properly composed state board of examiners of master plumbers for reconsideration of imposition of sanctions upon master plumber was appropriate; four out of seven members of board originally imposing sanctions were not statutorily qualified to hold positions. Matter of Fichner, 144 N.J. 459, 677 A.2d 201 (1996).

### 13:32-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Apprentice plumber" means any person other than a master plumber or journeyman plumber who, as his or her principal occupation, is engaged in learning and assisting in the installation of plumbing.

"Board" means the State Board of Examiners of Master Plumbers.

"Bona fide representative" means a licensed master plumber who is the holder of not less than 10 percent of a plumbing contractor in the State of New Jersey.

"Journeyman plumber" means an individual who has completed four years engaged in learning and assisting in the installation of plumbing and who works under the supervision of a master plumber or supervisory journeyman plumber.

"Licensed master plumber" means a person licensed pursuant to N.J.S.A. 45:14C-1 et seq. who has the qualifications, training, experience and technical knowledge necessary to properly plan, lay out, install and repair plumbing apparatus and equipment and to supervise others in the performance of such work in accordance with the rules established in this chapter.

"Plumbing" means the practice, materials and fixtures used in the installation, maintenance, extension, alteration, repair and removal of all piping, plumbing fixtures, plumbing appliances and plumbing apparatus in connection with any of the following: sanitary drainage, storm facilities and building sewers to their respective final connection to an approved point of disposal, venting systems, public and private water supply systems of any premises to and within the property line of any building or structure to their final connection with an approved supply system. "Plumbing" also means the practice and materials used in the installation, maintenance, extension, alteration, repair or removal of stormwater, refrigeration and air conditioning drains, liquid waste or sewage. "Plumbing" does not include the final connection to an approved point of disposal or an approved supply system which extends beyond three feet of a building or structure.

"Plumbing contractor" means any individual licensed master plumber operating as a sole proprietor who, or a firm, partnership, corporation or other legal entity which undertakes for another the planning, laying out, supervising, installing or making of additions, alterations and repairs in the installation of plumbing who either acts, or has a licensed master plumber who acts, as a bona fide representative as required by N.J.S.A. 45:14C-2(d) and (h) and this subchapter.

"Supervisory journeyman plumber" means an individual who has completed an apprenticeship program approved by both a Federal agency and a Federally certified State agency recognized by the Board and has completed three additional years as a journeyman plumber working with tools in the installation, maintenance, extension, alteration, repair and removal of all piping, plumbing fixtures, plumbing appliances, and plumbing apparatus as defined in the word "plumbing."

"10 percent ownership" means that the bona fide representative is entitled to 10 percent of any net profits from a business, owns a 10 percent equity interest in a plumbing contractor, and is entitled to 10 percent of the net proceeds from the sale of a business in the event of sale of the business. If the plumbing contractor is a corporation, the bona fide representative owns stock equaling a 10 percent equity interest, and, if there are more than one class of stock, the stock owned by the bona fide representative is the highest level stock with full voting rights.

New Rule, R.2001 d.12, effective March 3, 2001.

See: 31 N.J.R. 3984(a), 33 N.J.R. 56(a).

Former N.J.A.C. 13:32-1.3, Examinations, repealed.

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

Substituted "Licensed master plumber" for "Master plumber"; in "Plumbing contractor", substituted "licensed master plumber" for "licensee".

Amended by R.2005 d.69, effective February 22, 2005.

See: 36 N.J.R. 1718(b), 37 N.J.R. 616(a).

Added "Plumbing".

**13:32-1.4 Scope of practice**

(a) This section prescribes the permissible scope of plumbing practice which shall include that which is defined as plumbing in N.J.A.C. 13:32-1.3.

(b) Plumbing shall be performed by a master plumber, an authorized plumbing contractor, or by employees working under the supervision of a master plumber as permitted by N.J.S.A. 45:14C-1 et seq. and N.J.A.C. 13:32-3.3.

(c) For purposes of this section, the following shall also be considered within the scope of the practice of plumbing and shall only be performed by individuals designated in (b) above:

1. Performing of plumbing work, including minor work and ordinary repairs even though a permit is not required;

2. Installation and service of storm, sanitary, and water piping to the final point of connection within three feet of the exterior of a building or structure located on private property;

3. Installation of the water service and backflow preventer for fire suppression systems and water sprinkler systems;

4. Plumbing work performed at a place of business by employees of that business on property owned by the business;

5. Disconnection and sealing of water and sewer lines;

6. Installation and service of all direct and indirect drain piping associated with mechanical equipment that is connected to a sewer system;

7. Installation and completion of plumbing, at no cost, notwithstanding that the property is owned by a nonprofit organization;

8. Installation or disconnection of water filtration or water softening equipment, water heaters, humidifiers, ice making equipment or backflow preventers;

9. Installation of water piping on the house side of a well water compression tank; and

10. Installation and service of storm, sanitary and water piping between buildings or structures on a property.

(d) For purposes of this section, the following is not within the scope of the practice of plumbing and may be performed by individuals who are not licensed master plumbers:

1. The clearance of stoppages and installation or removal of a cleanout or cleanout equivalent necessary to clear the stoppage;

2. The installation and service of storm, sanitary, and water piping from the final point of connection more than three feet from the exterior of a building or structure located on private property;

3. The installation, service, and maintenance of fire suppression systems and lawn sprinkler systems downstream from a back flow prevention device;

4. The installation, service, and maintenance of gas and hydronic piping;

5. The demolition or removal of plumbing, provided the water and sewer utilities are first disconnected and sealed outside the building;

6. The installation and service of transmission piping by water or sewer utilities; and

7. The installation and service of water lines to mechanical equipment downstream from a back flow prevention device.

(e) The provisions of this section shall not apply to:

1. A single-family home owner who performs plumbing work in his or her own dwelling; and

2. Plumbing work performed by full-time employees of a public agency on property owned by that agency.

(f) A licensed master plumber who performs a task which is not considered plumbing as outlined in (d) above shall perform the task in a manner consistent with professional plumbing standards.

(g) An individual who is licensed pursuant to N.J.S.A. 58:4A-23 et seq. is not engaged in the unlicensed practice of plumbing when he or she is performing the tasks that he or she is licensed to perform.

Amended by R.1973 d.170, effective June 22, 1973.

See: 5 N.J.R. 90(a), 5 N.J.R. 239(c).

Repealed by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Section was "Bond".

New Rule, R.2005 d.69, effective February 22, 2005.

See: 36 N.J.R. 1718(b), 37 N.J.R. 616(a).

**13:32-1.5 (Reserved)**

Repeal and New Rule, R.1983 d.580, effective December 19, 1983.

See: 15 N.J.R. 1171(a), 15 N.J.R. 2172(c).

Repealed old rule concerning dual representation prohibited and adopted new rule.

Amended by R.1992 d.457, effective November 16, 1992.

See: 24 N.J.R. 2334(a), 24 N.J.R. 4270(b).

Stylistic revisions to (a)1; revised (b)1.

Recodified to N.J.A.C. 13:32-3.2 and N.J.A.C. 13:32-3.3 by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Section was "Bona fide representative, responsibilities and limitations".

**13:32-1.6 (Reserved)**

Repealed by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).  
Section was "Change of address".

### 13:32-1.7 (Reserved)

Repeal and New Rule, R.1987 d.481, effective November 16, 1987.  
See: 19 N.J.R. 1630(a), 19 N.J.R. 2197(c).

Old rule was renewal certificates.

Amended by R.1991 d.170, effective April 1, 1991.

See: 22 N.J.R. 784(a), 23 N.J.R. 1009(b).

Added "and business address, including the street name and number of the owner or qualified bona fide representative" in (b).

Added (c).

Amended by R.1992 d.457, effective November 16, 1992.

See: 24 N.J.R. 2334(a), 24 N.J.R. 4270(b).

Revised (a)-(b); added new (c)-(d); redesignated existing (c) as (e) without changes.

Repealed by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Section was "Identification of licensees".

### 13:32-1.8 (Reserved)

Recodified to N.J.A.C. 13:32-4.1 by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Section was "Requirement of pressure seal defined".

### 13:32-1.9 (Reserved)

Recodified to N.J.A.C. 13:32-4.2 by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Section was "Requirement of identification card defined".

### 13:32-1.10 (Reserved)

New Rule, R.1991 d.170, effective April 1, 1991.

See: 22 N.J.R. 784(a), 23 N.J.R. 1009(b).

Repealed by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Section was "Return of pressure seal".

### 13:32-1.11 (Reserved)

New Rule, R.1991 d.170, effective April 1, 1991.

See: 22 N.J.R. 784(a), 23 N.J.R. 1009(b).

Repealed by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Section was "Supervision".

### 13:32-1.12 (Reserved)

Recodified to N.J.A.C. 13:32-4.5 by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Section was "Professional prices".

## SUBCHAPTER 2. APPLICATION, EXPERIENCE REQUIREMENTS, EXAMINATION

### 13:32-2.1 Eligibility for examinations

(a) To be eligible to take the plumbing license examination an applicant shall:

1. Be 21 years of age or older; and

2. Have completed the experience requirements set forth in N.J.A.C. 13:32-2.2.

(b) An applicant for the plumbing licensing examination shall submit to the Board:

1. A completed application for examination, on a form provided by the Board, including a full street name and number. An application containing only a post office box number as a mailing address shall not be considered a complete application;

2. Proof that the applicant has met the experience requirements set forth in N.J.A.C. 13:32-2.2; and

3. The application fee as set forth in N.J.A.C. 13:32-5.1.

(c) After the Board has reviewed the information required in (b) above, the Board shall send a letter that informs the applicant whether he or she is eligible to take the licensing examination required by N.J.A.C. 13:32-2.4 and, if deemed eligible, of the time and place of examination.

Amended by R.1987 d.481, effective November 16, 1987.

See: 19 N.J.R. 1630(a), 19 N.J.R. 2197(c).

Amended by R.1991 d.170, effective April 1, 1991.

See: 22 N.J.R. 784(a), 23 N.J.R. 1009(b).

Revised application requirements in (b) to indicate that a post office box number as applicant's mailing address is not a complete application.

Amended by R.1992 d.457, effective November 16, 1992.

See: 24 N.J.R. 2334(a), 24 N.J.R. 4270(b).

Revised (c).

Amended by R.1997 d.15, effective January 6, 1997.

See: 28 N.J.R. 3709(a), 29 N.J.R. 148(a).

Inserted new (b); and recodified former (b) and (c) as (c) and (d).

Recodified from N.J.A.C. 13:32-1.2 and amended by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Inserted new (a); recodified (a) as (b); and deleted (b) and (d). Former N.J.A.C. 13:32-2.1, "Fees" recodified to N.J.A.C. 13:32-5.1.

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

Rewrote the section.

### 13:32-2.2 Experience requirements

(a) For purposes of this section, "practical hands-on experience" means experience in the installation, maintenance, extension, alteration, repair and removal of piping, plumbing fixtures, plumbing appliances and plumbing apparatus as defined in N.J.S.A. 45:14C-2(g). Practical hands-on experience does not include time spent in performing managerial tasks such as supervising, engineering, estimating, or time spent performing tasks which do not constitute the practice of plumbing as defined in N.J.A.C. 13:32-1.3.

(b) Applicants for examination for a license as a master plumber shall present proof to the Board that he or she:

1. Has completed a four year apprenticeship program approved by both the United States Department of Labor and a Federally certified state agency, and has completed

one year of practical hands-on experience as a journeyman plumber; or

2. Has been awarded a bachelor's degree in mechanical, plumbing or sanitary engineering from a college or university accredited by a regional accreditation agency recognized by the Council on Post-Secondary Accreditation or the United States Department of Education, and has completed one year of practical hands-on experience as a journeyman plumber.

New Rule, R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Repeal and New Rule, R.2002 d.122, effective April 15, 2002.

See: 33 N.J.R. 4059(a), 34 N.J.R. 1551(a).

Section was "Experience requirements".

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

Deleted (c) through (g).

### 13:32-2.3 Examinations

(a) Examinations shall be prepared and administered by Experior Assessments, LLC., or its successor, but no license shall be granted except by the Board. The Board chairman may designate members of the Board to oversee the administration of the examination.

(b) Examinations shall be held at least four times annually and at such additional times as the Board may determine.

(c) Examinations shall consist of three parts:

1. Written examination based on the National Standard Plumbing Code as adopted by the State of New Jersey pursuant to the Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq.;

2. Practical examination; and

3. Written examination of laws and regulations governing the occupation and business of plumbing.

(d) In order to pass the examination an applicant must receive a minimum grade of 70 in each of the three areas outlined in (c) above.

Recodified from N.J.A.C. 13:32-1.3(a) through (d) and amended by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

N.J.A.C. 13:32-1.3(a) through (d), recodified as (a), (b), (d) and (e) respectively; and inserted new (c).

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

Rewrote the section.

### 13:32-2.4 Failure of examination; when retaking permitted

(a) An applicant who has failed the plumbing licensing examination may review his or her examination upon written request to Experior Assessments, LLC., or its successors, and payment to the testing service of its review fee.

(b) No person who has failed the examination shall be eligible to be reexamined for a period of six months from the date of the examination filed by such person.

Recodified from N.J.A.C. 13:32-1.3(e) and amended by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

N.J.A.C. 13:32-1.3(e) recodified as (a); and inserted new (b).

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

In (a), inserted "plumbing licensing" preceding "examination" and substituted "Experior Assessments, LLC., or its successors," for "the Board-approved testing service".

### 13:32-2.5 Licensure

(a) After an applicant has successfully passed the licensing examination, he or she shall submit to the Board:

1. A surety bond in the sum of \$3,000 as required pursuant to N.J.S.A. 45:14C-26;

2. A completed application for a pressure seal; and

3. The licensing fee as set forth in N.J.A.C. 13:32-5.1.

New Rule, R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

### 13:32-2.6 Renewal of license

(a) Licenses shall be renewed biennially on a form provided by the Board. Each applicant for renewal shall attest that the continuing education requirements of N.J.A.C. 13:32-6.1 have been completed during the prior biennial period.

(b) The Board shall send a notice of renewal to each licensed master plumber, at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

(c) The licensed master plumber shall submit the renewal application and pay the renewal fee pursuant to N.J.A.C. 13:32-5.1 prior to the date of expiration of the license. If the licensed master plumber does not renew the license prior to its expiration date, the licensed master plumber may renew the license no later than 30 days after its expiration date by submitting a renewal application and paying a renewal fee and a late fee pursuant to N.J.A.C. 13:32-5.1. A licensed master plumber who fails to renew the license within 30 days after the expiration date of the license shall be suspended without a hearing.

(d) A person who continues to practice or hold him or herself out as a licensed master plumber after being suspended shall be deemed to have committed unlicensed practice pursuant to N.J.S.A. 45:14C-12.3, even if no notice of suspension has been provided to the person.

(e) A person seeking reinstatement within five years following the suspension of a license shall submit the following to the Board:

1. A completed reinstatement application;

2. Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:32-5.1;

3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:32-5.1;

4. A certification verifying completion of the continuing education credits required pursuant to N.J.A.C. 13:32-6.1 for each biennial renewal period the license is suspended; and

5. An affidavit of employment listing each job held during the period of suspension which includes the names, addresses, and telephone numbers of each employer.

(f) A person seeking reinstatement after more than five years following the suspension of a license shall successfully complete the examination required for initial licensure as set forth in N.J.A.C. 13:32-2.3 and shall submit:

1. A completed reinstatement application;
2. Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:32-5.1;
3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:32-5.1; and
4. An affidavit of employment listing each job held during the period of suspension which includes the names, addresses, and telephone numbers of each employer.

(g) Renewal applications for all licensed master plumbers shall provide the applicant with the option of either active or inactive renewal. Applicants electing to renew as inactive shall not practice or hold themselves out to the public as licensed master plumbers. A licensed master plumber renewing as inactive shall submit to the Board:

1. A completed renewal application; and
2. The pressure seal.

(h) Upon application to the Board, the Board may permit an applicant who has been on inactive status to return to active status provided such applicant completes the continuing education credits that are required per biennial period for each biennial period that the applicant is on inactive status and the applicant pays the renewal fee as set forth in N.J.A.C. 13:32-5.1. The Board shall return the licensed master plumber's pressure seal when the licensed master plumber returns to active status.

New Rule, R.2003 d.165, effective April 21, 2003.  
See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

### SUBCHAPTER 3. IDENTIFICATION OF LICENSEES; BONA FIDE REPRESENTATIVE; SUPERVISION

#### 13:32-3.1 Identification of licensed master plumber; vehicles, stationery; advertising

(a) All commercial vehicles used in the practice of State-licensed master plumbing shall be marked on both sides with the following information:

1. The name of the licensed master plumber in lettering at least one inch in height;

2. The words "Plumbing license number" or "Plumbing Lic. #" followed by the license number of the owner or qualified bona fide representative in lettering at least one inch in height; and

3. The name of the owner or lessee of the vehicle and the municipality from which the licensed master plumber practices or where the licensed master plumber has a principal office in lettering at least three inches in height.

i. Where available space for lettering is limited, either by design of the vehicle or by the presence of other legally specified identification markings, making strict compliance with (a)3 above impractical, the size of the lettering shall be as close to three inches high as is possible within the limited space, provided the name is clearly visible and readily identifiable.

(b) All business correspondence, invoices and stationery shall display:

1. The name of the licensed master plumber; and
2. The words "Plumbing license number" or "Plumbing Lic. #" followed by the license number of the owner or qualified bona fide representative; and
3. The business address, including the street name and number of the owner or qualified bona fide representative.

(c) All advertising shall include:

1. The name of the licensed master plumber;
2. The business address, including the street name and number of the owner or qualified bona fide representative; and
3. The words "Plumbing license number" or "Plumbing Lic. #" followed by the license number of the owner or qualified bona fide representative.

(d) Every State-licensed master plumber whose name, office address, place of practice or license number appears or is mentioned in any advertisement of any kind or character shall be presumed to have caused, permitted, or approved the advertising and shall be personally responsible for its content and character.

(e) If a plumbing contractor intends to subcontract, in a calendar year, more than one-third of the work which it contracts to perform, or subcontracted in the previous calendar year more than one-third of the work which it contracted to perform, all advertising by the plumbing contractor shall state: "A substantial part of the work which we undertake may be performed by independent licensed plumbing subcontractors."

New Rule, R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Amended by R.1999 d.245, effective August 2, 1999.

See: 31 N.J.R. 250(b), 31 N.J.R. 2223(a).

Rewrote (a); in (c), inserted a new 2, and recodified former 2 as 3. Amended by R.2001 d.12, effective March 3, 2001.

See: 31 N.J.R. 3984(a), 33 N.J.R. 56(a).

In (b), inserted "invoices" preceding "and stationery" and added (e) and (f).

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

In (a)3, substituted "licensed master plumber" for "licensee" throughout; in (e), inserted "or subcontracted in the previous calendar year more than one-third of the work which it contracted to perform," preceding "all advertising"; deleted (f).

### 13:32-3.2 Bona fide representative; reporting responsibilities

(a) A licensed master plumber seeking to act as a bona fide representative for any firm, partnership, corporation or other legal entity contemplated by N.J.S.A. 45:14C-2 shall comply with the following within 30 days of assuming the role of a bona fide representative:

1. Register with the Board, providing the name of the plumbing contractor, its business address and if the plumbing contractor is a corporation, the names of the officers of record;

2. Attest to the bona fide representative's ownership interest in the plumbing contractor as follows:

- i. If a licensed master plumber claims to hold 10 percent or more but less than 50 percent of the issued and outstanding stock or capital of the plumbing contractor, the licensed master plumber shall provide the Board with a written affidavit which states the percentage of outstanding shares held by the licensed master plumber. The affidavit shall be executed by the corporate secretary or other appropriate representative of the plumbing contractor;

- ii. If a licensed master plumber claims to hold 50 percent or more of the issued and outstanding stock or capital of the plumbing contractor, the licensed master plumber shall provide a written affidavit which states the percentage of outstanding shares held by the licensed master plumber upon a request by the Board. The affidavit shall be executed by the corporate secretary or other appropriate representative of the plumbing contractor;

3. Provide to the Board proof that the plumbing contractor has consented that the bona fide representative will act as the agent for service of process within this State. Such proof shall be in writing and on a form provided by the Board; and

4. Provide to the Board the acceptance of liability by the plumbing contractor for any monetary penalty, monies to be paid for restoration to consumers of fees paid for services or for delays suffered by consumers and costs assessed against the bona fide representative while acting within the scope of his or her employment on behalf of the plumbing contractor. Such acceptance of liability shall be in writing and on a form provided by the Board.

(b) In order to evaluate the claims relating to the bona fide representatives ownership interest in the plumbing contractor pursuant to (a)2 above, the Board, at any time, may request that the bona fide representative provide any Federal, State or local government tax documentation which the plumbing contractor is required to file with the governmental tax authorities.

(c) If a bona fide representative for any firm, partnership, corporation or other legal entity contemplated by N.J.S.A. 45:14C-1 et seq. withdraws as the bona fide representative, the firm, partnership, corporation or other legal entity may continue to operate for 60 days without a bona fide representative provided that a licensee supervises all work to be conducted in the same manner as required by a bona fide representative pursuant to N.J.A.C. 13:32-3.3(a)3, the bona fide representative and the firm, partnership, corporation or other legal entity notifies the Board within 10 days of the withdrawal of the bona fide representative and the supervising licensee notifies the Board within 10 days of being appointed as the supervising licensee.

(d) If the bona fide representative for any firm, partnership, corporation or other legal entity contemplated by N.J.S.A. 45:14C-2 is unable to perform the duties of a bona fide representative because of death, illness or disability, the firm, partnership, corporation or other legal entity may continue to operate for six months without a bona fide representative provided that a licensed master plumber supervises all work to be conducted in the same manner as required by a bona fide representative pursuant to N.J.A.C. 13:32-3.3(a)3 and the licensed master plumber and the firm, partnership, corporation or other legal entity notify the Board within 10 days after the death, illness or disability of the bona fide representative.

Recodified from N.J.A.C. 13:32-1.5(a) by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Amended by R.2001 d.12, effective March 3, 2001.

See: 31 N.J.R. 3984(a), 33 N.J.R. 56(a).

Rewrote the section.

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

Substituted "licensed master plumber" for "licensee" throughout.

Amended by R.2005 d.69, effective February 22, 2005.

See: 36 N.J.R. 1718(b), 37 N.J.R. 616(a).

Rewrote (c).

### 13:32-3.3 Bona fide representative responsibilities

(a) A bona fide representative registered with the Board pursuant to N.J.A.C. 13:32-3.2 shall:

1. Give notice to the Board in writing concerning any change in the name or address of the entity within 10 days of the change.

2. Secure or instruct an authorized employee, or for the purpose of this section only, an independent contractor licensed as a master plumber, to secure all necessary permits as may be required by State and local law for the performance of plumbing work to be performed by the plumbing contractor for which the licensed master plumber acts as a qualified bona fide representative. In making an application for permit issuance, the authorized employ-

ee or independent plumbing contractor shall have in his or her possession a letter authorizing him or her to make the application. A letter of authorization may authorize a permit application for a specific period of time, not to exceed 60 days, and shall have affixed to it the seal of the bona fide representative. In all circumstances, the permit shall be signed by a licensed master plumber and all work shall be supervised in the manner set forth in (a)3 below;



3. Supervise in the manner described in (a)3i through iv below the performance of all plumbing work performed by the plumbing contractor for which the licensed master plumber acts as the bona fide representative. Such supervision shall assure the effective compliance with State and local plumbing codes and the performance of work in accordance with proper plumbing practice;

i. If the person performing the work is a New Jersey licensed master plumber, the bona fide representative shall require at the beginning of the job an initial report on the work to be performed and upon completion of the job a final report on the work performed;

ii. If the person performing the work is a supervisory journeyman, the bona fide representative or a New Jersey licensed master plumber employed by the bona fide representative shall maintain daily contact with the supervisory journeyman either directly, by telephone or through writing. Any such contact shall be recorded by and maintained in the files of the bona fide representative or the New Jersey licensed master plumber employed by the bona fide representative;

iii. If the person performing the work is a journeyman, the bona fide representative, a New Jersey licensed master plumber employed by the bona fide representative or the supervisor journeyman shall maintain daily contact with the journeyman either directly, by telephone or through writing and, where the work requires a plumbing permit, shall inspect the work upon completion. Any such contact shall be recorded by the bona fide representative, the New Jersey licensed master plumber employed by the bona fide representative or the supervisory journeyman; and

iv. If the person performing the work is an apprentice, the bona fide representative shall ensure constant on-site supervision by a New Jersey licensed master plumber employed by the bona fide representative or a supervisory journeyman during all times that plumbing services are being performed;

4. Be responsible for any and all violations of N.J.S.A. 45:14C-1 et seq. committed by employees of the plumbing contractor for which he or she is serving as a bona fide representative if said violations were committed during the course of work which he or she was required to supervise;

5. Serve as a bona fide representative for only one plumbing contractor;

6. Maintain a place of business in the State of New Jersey; and

7. Provide each supervisory journeyman of the plumbing contractor that performs plumbing work with an identification card that includes:

i. The name of the supervisory journeyman;

ii. The name and address of the plumbing contractor;

iii. The name and license number of the bona fide representative;

iv. The seal of the bona fide representative; and

v. The issue and expiration dates of the identification card. The expiration date shall not exceed one year from the date of issue.

(b) Nothing herein shall preclude the Board from proceeding against both the bona fide representative for an entity or any other licensed master plumber employed by such an entity who can be shown to have violated the Board's enabling legislation or any regulation adopted thereunder. Nothing shall preclude any person entitled to maintain an action on a bond from proceeding pursuant to N.J.A.C. 13:32-4.3 against the bona fide representative and any other licensed master plumber who has failed to perform the duties required by N.J.S.A. 45:14C-1 et seq.

(c) The bona fide representative of any plumbing contractor which contracts to provide plumbing services to a consumer and wishes to subcontract that plumbing work to another plumbing contractor shall:

1. Subcontract only to a plumbing contractor who is either a sole proprietor or which has a bona fide representative who is registered with the Board. The bona fide representative for the original plumbing contractor shall be responsible for ensuring that the subcontractor has a registered bona fide representative;

2. Require of the subcontractor that a copy of any permit applications, permits and changes in application or permit shall be delivered to the original plumbing contractor within five business days of the date the application or permit is filed;

3. Notify the consumer, prior to the beginning of any work, that the work has been subcontracted to another licensed master plumber or legally qualified plumbing contractor and provide the consumer with the name, address and telephone number of the subcontractor and the name and license number of the subcontractor's bona fide representative;

4. Advise the consumer prior to the beginning of any work that he or she has the right to terminate the contract prior to the beginning of any work because of the subcontracting;

5. Notify the consumer that the original contractor as well as the subcontractor remain liable for any defects, damages or other losses which may result from the negligence, misconduct or insolvency of the subcontractor;

6. Require that the subcontractor immediately notify the original contractor of any complaints by the consumer or the consumer's representative or by any governmental official; and

7. Supervise the work of the bona fide representative for the subcontractor in the same manner as required by (a)3i above.

(d) The bona fide representative shall have sufficient knowledge of the plumbing contractor's bookkeeping system and financial accounts to inform the Board, upon request by the Board, regarding the plumbing contractor's price-setting, billings, costs, subcontractors, overhead costs and profits.

Recodified from N.J.A.C. 13:32-1.5(b) and (c) and amended by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Amended N.J.A.C. references.

Amended by R.2001 d.12, effective March 3, 2001.

See: 31 N.J.R. 3984(a), 33 N.J.R. 56(a).

Rewrote the section.

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

Substituted "licensed master plumber" for "licensee" throughout.

### 13:32-3.4 Supervision

Any plumbing work that a licensed master plumber agrees to perform, that has not been subcontracted to another licensed master plumber, shall be performed only by the licensed master plumber or the employees of the licensed master plumber or the plumbing contractor.

New Rule, R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

Rewrote the section.

## SUBCHAPTER 4. MISCELLANEOUS

### 13:32-4.1 Requirement of pressure seal; penalties for misuse; return of pressure seal

(a) At the time of the issuance of the license the Board shall furnish a seal to the licensed master plumber.

(b) The seal shall be used exclusively by the licensed master plumber in the conduct of the plumbing business practice. The licensed master plumber shall impress the seal upon all applications for plumbing permits.

(c) Use of a seal by any person other than the State licensed master plumber to whom it was issued or the securing of a plumbing permit for an unlicensed person shall be deemed to be the use or employment of dishonesty, fraud, deception, misrepresentation or false pretense. Such conduct may be grounds for the suspension or revocation of the license of an unauthorized user if he or she is already licensed by the Board. With respect to an unlicensed user, such conduct shall be grounds for the refusal to issue a State license at any point in the future. Nothing herein shall be deemed to preclude a bona fide representative from securing a plumbing permit for the plumbing contractor he or she represents.

(d) A licensed master plumber who willfully or negligently allows an unlicensed or unauthorized person to use his or her seal shall be subject to such penalties and sanctions as shall be imposed by the Board pursuant to authority granted by N.J.S.A. 45:14C-1 and 45:1-14 et seq.

(e) A licensed master plumber who fails to renew the license in accordance with N.J.S.A. 45:1-7.1 or who has had his or her license suspended or revoked for any reason shall return the pressure seal to the Board within 30 days of the suspension, revocation or lapse of license.

(f) A licensed master plumber who no longer possesses a pressure seal due to theft, loss or other cause, shall replace the seal by submitting to the Board:

1. A notarized letter, detailing why the licensed master plumber no longer possesses the pressure seal; and

2. The replacement pressure seal fee pursuant to N.J.A.C. 13:32-5.1.

New Rule, R.1982 d.388, effective November 1, 1982.

See: 14 N.J.R. 750(a), 14 N.J.R. 1219(e).

Amended by R.1991 d.170, effective April 1, 1991.

See: 22 N.J.R. 784(a), 23 N.J.R. 1009(b).

Added "or the securing of a plumbing permit for an unlicensed person" and "Nothing herein shall be deemed to preclude a bona fide representative from securing a plumbing permit for the plumbing contractor he represents." is (b).

Amended by R.1992 d.457, effective November 16, 1992.

See: 24 N.J.R. 2334(a), 24 N.J.R. 4270(b).

Revised (a).

Recodified from N.J.A.C. 13:32-1.8 and amended by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Deleted (b); recodified (c) as (b); and added new (c) through (e).

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

Rewrote the section.

### 13:32-4.2 Requirement of identification card

(a) At the time of the biennial renewal of the license, the Board shall furnish a wallet size identification card to every licensed master plumber. The card shall be used exclusively by the licensed master plumber in the conduct of his or her practice. A licensed master plumber is required to present the identification card upon request when applying for plumbing permits.

(b) Use of an identification card by any person, other than the licensed master plumber to whom the identification card is issued or by the agent authorized to act on behalf of the licensed master plumber, shall be deemed to be the use or employment of dishonesty, fraud, deception, misrepresentation or false pretense. Such conduct shall be unlawful and may be grounds for the suspension or revocation of the license of the unauthorized user if he or she is already licensed by the Board. With respect to an unlicensed user, such conduct shall be grounds for the refusal to issue a State license in the future.

(c) A licensed master plumber who willfully or negligently allows an unlicensed or unauthorized person to use his or her identification card shall be deemed to have engaged in occupational misconduct and shall be subject to such penalties and sanctions as shall be imposed by the Board pursuant to authority granted by N.J.S.A. 45:14C-1 and 45:1-14 et seq.

New Rule, R.1987 d.257, effective July 6, 1987.

See: 19 N.J.R. 352(b), 19 N.J.R. 1227(b).

Recodified from N.J.A.C. 13:32-1.9 and amended by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Added (c).

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

Rewrote the section.

### 13:32-4.3 Actions on the surety bond

(a) Any person, partnership or corporation including any political subdivision of State government who has been injured, aggrieved or damaged through the failure of a licensed master plumber to perform the duties required by N.J.S.A. 45:14C-1 et seq. or any rule of the Board shall be eligible to receive the financial protection of, and may maintain an action on the surety bond.

New Rule, R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

Deleted former (a); recodified former (b) as (a); in new (a), substituted "a licensed master plumber" for "the obligor", and substituted "the surety bond" for "such bond".

### 13:32-4.4 Change of address; service of process

(a) Every licensed master plumber shall notify the Board in writing of the licensed master plumber's office address. Every licensed master plumber shall notify the Board in writing of any change in his or her residence or business within 10 days after such change.

(b) Service of an administrative complaint or other process initiated by the Board, the Attorney General or the Division of Consumer Affairs at the licensed master plumber's address on file with the Board shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding against the licensed master plumber.

New Rule, R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

In (a), substituted "notify the Board in writing" for "give notice in writing to the Board"; substituted "licensed master plumber" for "licensee" throughout.

### 13:32-4.5 Unconscionable pricing

(a) A licensed master plumber of the Board shall not charge an excessive price for services. A price is excessive when, after review of the facts, a licensed master plumber of ordinary prudence would be left with a definite and firm

conviction that the price is so high as to be manifestly unconscionable or overreaching under the circumstances.

(b) Factors which may be considered in determining whether a price is excessive include, but are not limited to, the following:

1. The time and effort required;
2. The novelty or difficulty of the job;
3. The skill required to perform the job properly;
4. Any special conditions placed upon the performance of the job by the person or entity for which the work is being performed;
5. The experience, reputation and ability of the licensed master plumber to perform the services; and
6. The price customarily charged in the locality for similar services.

(c) Charging an excessive price shall constitute occupational misconduct within the meaning of N.J.S.A. 45:1-21(e) and may subject the licensed master plumber to disciplinary action.

New Rule, R.1991 d.170, effective April 1, 1991.

See: 22 N.J.R. 784(a), 23 N.J.R. 1009(b).

Recodified from N.J.A.C. 13:32-1.12 by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

Substituted "licensed master plumber" for "licensee" throughout.

### Case Notes

Votes of members of State Board of Master Plumbers in disciplinary proceeding. Matter of Fichner, 282 N.J.Super. 422, 660 A.2d 545 (A.D.1995).

## SUBCHAPTER 5. FEES

### 13:32-5.1 Fee schedule

(a) The following fees shall be charged by the Board:

1. Application fee without prior registration (non-refundable) ..... \$100.00
2. Application fee with prior registration (non-refundable) ..... 50.00
3. Initial license fee:
  - i. If paid during the first year of a biennial renewal period ..... 160.00
  - ii. If paid during the second year of a biennial renewal period ..... 80.00
4. License renewal fee, biennial ..... 160.00
5. Registration as an apprentice (non-refundable) ..... 50.00
6. Registration as a journeyman without prior registration (non-refundable) ..... 75.00

7. Registration as a journeyman with prior registration (non-refundable).....	50.00
8. Late renewal fee.....	50.00
9. Reinstatement fee.....	150.00
10. Replacement seal press.....	40.00
11. Duplicate license fee.....	25.00
12. Replacement wall certificate.....	40.00
13. Verification of licensure.....	25.00
14. Continuing education sponsor application fee.....	100.00

Recodified from N.J.A.C. 13:32-2.1 by R.1997 d.456, effective November 3, 1997.

See: 29 N.J.R. 3592(a), 29 N.J.R. 4704(b).

Amended by R.1999 d.212, effective July 6, 1999.

See: 31 N.J.R. 836(b), 31 N.J.R. 1816(b).

Rewrote (a).

Amended by R.2002 d.80, effective March 18, 2002.

See: 33 N.J.R. 3731(a), 34 N.J.R. 1266(a).

In (a), added 14.

## SUBCHAPTER 6. CONTINUING EDUCATION

### 13:32-6.1 License renewal, continuing education requirement

(a) Every licensee shall successfully complete five credits of continuing education at an approved course per biennial period. Licensees applying for their first biennial renewal are exempt from this continuing education requirement.

(b) A licensee shall indicate on the license renewal form that he or she has completed the continuing education requirements required by this subchapter. Failure to meet the continuing education requirements as set forth in this subchapter or the falsification of any information submitted with the renewal application may result in an appearance before the Board, or the imposition of disciplinary sanctions pursuant to N.J.S.A. 45:1-21 et seq.

(c) Every licensee shall maintain, for a period of four years, a record of all verification of attendance forms for all continuing education courses the licensee has completed. Licensees who teach a continuing education course during a biennial period shall maintain, for a four year period, records which indicate that the licensee has taught a Board approved continuing education course.

(d) The Board may review the records of any licensee, at any time, in order to ensure that the licensee has complied with the continuing education requirements.

Amended by R.2003 d.165, effective April 21, 2003.

See: 34 N.J.R. 3675(a), 35 N.J.R. 1671(a).

Deleted former (c); recodified former (d) through (e) as (c) through (d).

Public Notice: Continuing education topics.

See: 37 N.J.R. 4582(a).

### 13:32-6.2 Continuing education sponsors; Board approval; duties

(a) All sponsors of continuing education courses shall obtain Board approval prior to offering a continuing education course for an upcoming biennial period. The Board shall maintain a list of approved courses at the Board offices and shall furnish this information to licensees upon request.

(b) A sponsor seeking Board approval shall appear before the Board and submit, prior to that appearance, the following:

1. Detailed descriptions of course content and estimated hours of instruction;

2. Curriculum vitae of each instructor, including specific background which qualifies the individual as an instructor in specific areas; and

3. The continuing education sponsor application fee pursuant to N.J.A.C. 13:32-5.1(a)14.

(c) The sponsor of a continuing education course shall furnish each attendee a verification of attendance, which shall include the following:

1. The title, date and location of course or program offering;

2. The name and license number of the attendee;

3. The number of hours attended; and

4. The name and signature of the sponsor or instructor.

(d) The sponsor of a continuing education course shall monitor the attendance at each approved course and maintain an attendance log which lists the name and license number of every licensee who attends a course. The program sponsor shall submit the attendance log to the Board upon completion of the course. The log shall document that each licensee has completed the sponsor's course.

(e) The sponsor shall obtain course evaluations from both participants and instructors and maintain these evaluations as part of the sponsor records.

(f) The Board may evaluate the performance of any continuing education instructor through observation of the instructor during the presentation of a course or evaluate the qualifications and abilities of the instructor by conducting an interview during a Board meeting.

(g) A continuing education class shall consist of no more than 50 people.

### 13:32-6.3 Required course topics

(a) Three months prior to the beginning of a biennial period, the Board shall determine which topics shall be provided by program sponsors for the upcoming biennial period. The Board shall determine these topics at a regularly scheduled public Board meeting.

(b) The list of topics which shall be required by the Board for a biennial period shall be published as a public notice in the New Jersey Register and shall be available at the Board offices.

Public Notice: Continuing education topics.

See: 35 N.J.R. 5168(b).

Public Notice: Continuing education topics.

See: 37 N.J.R. 4582(a).

#### **13:32-6.4 Credit awarded**

(a) One continuing education credit shall equal one hour of attendance at a continuing education course.

(b) A licensee who teaches a continuing education course shall earn five credits of continuing education for the biennial period in which he or she teaches.

#### **13:32-6.5 Waiver of continuing education requirement**

(a) The Board may waive continuing education requirements on an individual basis for reasons of hardship, such as illness, disability, military duty or other good cause which prevents the licensee from completing continuing education credits during a biennial period.

(b) Any licensee seeking a waiver of the continuing education requirements shall apply to the Board in writing and set forth in specific detail the reasons for requesting the waiver. The licensee shall provide the Board with such supplemental materials as will support the request for waiver.

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## SUBCHAPTER 16. HOME IMPROVEMENT PRACTICES

### Law Review and Journal Commentaries

Can Consumer Fraud Ruling Teach Old Dogs New Tricks? Douglas J. Katich, 138 N.J.L.J. No. 8, 17 (1994).

#### 13:45A-16.1 Purpose and scope

(a) The purpose of the rules in this subchapter is to implement the provisions of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., by providing procedures for the regulation and content of home improvement contracts and establishing standards to facilitate enforcement of the requirements of the Act.

(b) The rules in this subchapter shall apply to all sellers as defined in N.J.A.C. 13:45A-16.1A and to all home improvement contractors as defined in N.J.A.C. 13:45A-17.2 whether or not they are exempt from the provisions of N.J.A.C. 13:45A-17.

New Rule, R.2004 d.418, effective November 1, 2004 (operative November 9, 2004).

See: 36 N.J.R. 3506(a), 36 N.J.R. 4984(a).

Former N.J.A.C. 13:45A-16.1, Definitions, recodified to N.J.A.C. 13:45A-16.1A.

**13:45A-16.1A Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context indicates otherwise.

"Home improvement" means the remodeling, altering, painting, repairing, renovating, restoring, moving, demolishing, or modernizing of residential or noncommercial property or the making of additions thereto, and includes, but is not limited to, the construction, installation, replacement, improvement, or repair of driveways, sidewalks, swimming pools, terraces, patios, landscaping, fences, porches, windows, doors, cabinets, kitchens, bathrooms, garages, basements and basement waterproofing, fire protection devices, security protection devices, central heating and air conditioning equipment, water softeners, heaters, and purifiers, solar heating or water systems, insulation installation, siding, wall-to-wall carpeting or attached or inlaid floor coverings, and other changes, repairs, or improvements made in or on, attached to or forming a part of the residential or noncommercial property, but does not include the construction of a new residence. The term extends to the conversion of existing commercial structures into residential or noncommercial property and includes any of the above activities performed under emergency conditions.

"Home improvement contract" means an oral or written agreement between a seller and an owner of residential or noncommercial property, or a seller and a tenant or lessee of residential or noncommercial property, if the tenant or lessee is to be obligated for the payment of home improvements made in, to, or upon such property, and includes all agreements under which the seller is to perform labor or render services for home improvements, or furnish materials in connection therewith.

"Residential or non-commercial property" means a structure used, in whole or in substantial part, as a home or place of residence by any natural person, whether or not a single or multi-unit structure, and that part of the lot or site on which it is situated and which is devoted to the residential use of the structure, and includes all appurtenant structures.

"Sales representative" means a person employed by or contracting with a seller for the purpose of selling home improvements.

"Seller" means a person engaged in the business of making or selling home improvements and includes corporations, partnerships, associations and any other form of business organization or entity, and their officers, representatives, agents and employees.

Amended by R.1994 d.396, effective August 1, 1994.

See: 26 N.J.R. 1605(a), 26 N.J.R. 3183(a).

Amended by R.1995 d.618, effective December 4, 1995.

See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

Recodified from N.J.A.C. 13:45A-16.1 and amended by R.2004 d.418, effective November 1, 2004 (operative November 9, 2004).

See: 36 N.J.R. 3506(a), 36 N.J.R. 4984(a).

In "Home improvement", inserted "renovating, restoring, moving, demolishing," preceding "or modernizing" and deleted "aluminum" preceding "siding".

**Case Notes**

Tile company did not violate administrative regulation pertaining to written agreements involving home improvements when company failed to provide detailed written agreement upon agreeing to install kitchen floor in general contractor's new home, where such regulation did not include construction of a new residence. *Splash of Tile, Inc., v. Steven J. Moss*, 357 N.J. Super. 143, 814 A.2d 648.

Two-unit residence would be characterized as "residential property," relieving co-owners of duty to maintain abutting sidewalks in reasonably good condition, despite fact that only one unit of residence was owner-occupied. *Smith v. Young*, 300 N.J. Super. 82, 692 A.2d 76 (A.D.1997).

Unoccupied property having both residential and commercial uses qualified as "residential or noncommercial property" under Consumer Fraud Act; Act precluded enforcement of alleged oral renovation contract between electrical subcontractor and shareholder of property's corporate owner. *Marascio v. Campanella*, 298 N.J. Super. 491, 689 A.2d 852 (A.D.1997).

Residential property within scope of Consumer Fraud Act regulations. *Blake Const. v. Pavlick*, 236 N.J. Super. 73, 564 A.2d 130 (L.1989).

Consumer Fraud Act regulation requiring home improvement contracts to be in writing was valid. *Blake Const. v. Pavlick*, 236 N.J. Super. 73, 564 A.2d 130 (L.1989).

Home improvement contract did not comply with Consumer Fraud Act and was unenforceable. *Blake Const. v. Pavlick*, 236 N.J. Super. 73, 564 A.2d 130 (L.1989).

Owners of property characterized as residential not liable for defective abutting sidewalk. *Borges v. Hamed*, 247 N.J. Super. 353, 589 A.2d 199 (L.1990), affirmed 247 N.J. Super. 295, 589 A.2d 169.

**13:45A-16.2 Unlawful practices**

(a) Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., utilization by a seller of the following acts and practices involving the sale, attempted sale, advertisement or performance of home improvements shall be unlawful hereunder.

1. Model home representations: Misrepresent or falsely state to a prospective buyer that the buyer's residential or noncommercial property is to serve as a "model" or "advertising job", or use any other prospective buyer lure to mislead the buyer into believing that a price reduction or other compensation will be received by reason of such representations;

2. Product and material representations: Misrepresent directly or by implication that products or materials to be used in the home improvement:

- i. Need no periodic repainting, finishing, maintenance or other service;

- ii. Are of a specific or well-known brand name, or are produced by a specific manufacturer or exclusively distributed by the seller;

iii. Are of a specific size, weight, grade or quality, or possess any other distinguishing characteristics or features;

iv. Perform certain functions or substitute for, or are equal in performance to, other products or materials;

v. Meet or exceed municipal, state, federal, or other applicable standards or requirements;

vi. Are approved or recommended by any governmental agency, person, firm or organization, or that they are the users of such products or materials;

vii. Are of sufficient size, capacity, character or nature to do the job expected or represented;

viii. Are or will be custom-built or specially designed for the needs of the buyer; or

ix. May be serviced or repaired within the buyer's immediate trade area, or be maintained with replacement and repair parts which are readily available.

### 3. Bait selling:

i. Offer or represent specific products or materials as being for sale, where the purpose or effect of the offer or representation is not to sell as represented but to bait or entice the buyer into the purchase of other or higher priced substitute products or materials;

ii. Disparage, degrade or otherwise discourage the purchase of products or materials offered or represented by the seller as being for sale to induce the buyer to purchase other or higher priced substitute products or materials;

iii. Refuse to show, demonstrate or sell products or materials as advertised, offered, or represented as being for sale;

iv. Substitute products or materials for those specified in the home improvement contract, or otherwise represented or sold for use in the making of home improvements by sample, illustration or model, without the knowledge or consent of the buyer;

v. Fail to have available a quantity of the advertised product sufficient to meet reasonably anticipated demands; or

vi. Misrepresent that certain products or materials are unavailable or that there will be a long delay in their manufacture, delivery, service or installation in order to induce a buyer to purchase other or higher priced substitute products or materials from the seller.

### 4. Identity of seller:

i. Deceptively gain entry into the prospective buyer's home or onto the buyer's property under the guise of any governmental or public utility inspection, or otherwise misrepresent that the seller has any official right, duty or authority to conduct an inspection;

ii. Misrepresent that the seller is an employee, office or representative of a manufacturer, importer or any other person, firm or organization, or a member of any trade association, or that such person, firm or organization will assume some obligation in fulfilling the terms of the contract;

iii. Misrepresent the status, authority or position of the sales representative in the organization he represents;

iv. Misrepresent that the sales representative is an employee or representative of or works exclusively for a particular seller; or

v. Misrepresent that the seller is part of any governmental or public agency in any printed or oral communication including but not limited to leaflets, tracts or other printed material, or that any licensing denotes approval by the governmental agency.

### 5. Gift offers:

i. Offer or advertise any gift, free item or bonus without fully disclosing the terms or conditions of the offer, including expiration date of the offer and when the gift, free item or bonus will be given; or

ii. Fail to comply with the terms of such offer.

### 6. Price and financing:

i. Misrepresent to a prospective buyer that an introductory, confidential, close-out, going out of business, factory, wholesale, or any other special price or discount is being given, or that any other concession is made because of a market survey or test, use of materials left over from another job, or any other reason;

ii. Misrepresent that any person, firm or organization, whether or not connected with the seller, is especially interested in seeing that the prospective buyer gets a bargain, special price, discount or any other benefit or concession;

iii. Misrepresent or mislead the prospective buyer into believing that insurance or some other form of protection will be furnished to relieve the buyer from obligations under the contract if the buyer becomes ill, dies or is unable to make payments;

iv. Misrepresent or mislead the buyer into believing that no obligation will be incurred because of the signing of any document, or that the buyer will be relieved of some or all obligations under the contract by the signing of any documents;



v. Request the buyer to sign a certificate of completion, or make final payment on the contract before the home improvement is completed in accordance with the terms of the contract;

vi. Misrepresent or fail to disclose that the offered or contract price does not include delivery or installation, or that other requirements must be fulfilled by the buyer as a condition to the performance of labor, services, or the furnishing of products or materials at the offered or contract price;

vii. Mislead the prospective buyer into believing that the down payment or any other sum constitutes the full amount the buyer will be obligated to pay;

viii. Misrepresent or fail to disclose that the offered or contract price does not include all financing charges, interest service charges, credit investigation costs, building or installation permit fees, or other obligations, charges, cost or fees to be paid by the buyer;

ix. Advise or induce the buyer to inflate the value of the buyer's property or assets, or to misrepresent or falsify the buyer's true financial position in order to obtain credit; or

x. Increase or falsify the contract price, or induce the buyer by any means to misrepresent or falsify the contract price or value of the home improvement for financing purposes or to obtain additional credit.

#### 7. Performance:

i. Deliver materials, begin work, or use any similar tactic to unduly pressure the buyer into a home improvement contract, or make any claim or assertion that a binding contract has been agreed upon where no final agreement or understanding exists;

ii. Fail to begin or complete work on the date or within the time period specified in the home improvement contract, or as otherwise represented, unless the delay is for reason of labor stoppage; unavailability of supplies or materials, unavoidable casualties, or any other cause beyond the seller's control. Any changes in the dates or time periods stated in a written contract shall be agreed to in writing; or

iii. Fail to give timely written notice to the buyer of reasons beyond the seller's control for any delay in performance, and when the work will begin or be completed.

#### 8. Competitors:

i. Misrepresent that the work of a competitor was performed by the seller;

ii. Misrepresent that the seller's products, materials or workmanship are equal to or better than those of a competitor; or

iii. Use or imitate the trademarks, trade names, labels or other distinctive marks of a competitor.

#### 9. Sales representations:

i. Misrepresent or mislead the buyer into believing that a purchase will aid or help some public, charitable, religious, welfare or veterans' organization, or misrepresent the extent of such aid or assistance;

ii. Knowingly fail to make any material statement of fact, qualification or explanation if the omission of such statement, qualification or explanation causes an advertisement, announcement, statement or representation to be false, deceptive or misleading; or

iii. Misrepresent that the customer's present equipment, material, product, home or a part thereof is dangerous or defective, or in need of repair or replacement.

#### 10. Building permits:

i. No seller contracting for the making of home improvements shall commence work until he is sure that all applicable state or local building and construction permits have been issued as required under state laws or local ordinances; or

ii. Where midpoint or final inspections are required under state laws or local ordinances, copies of inspection certificates shall be furnished to the buyer by the seller when construction is completed and before final payment is due or the signing of a completion slip is requested of the buyer.

#### 11. Guarantees or warranties:

i. The seller shall furnish the buyer a written copy of all guarantees or warranties made with respect to labor services, products or materials furnished in connection with home improvements. Such guarantees or warranties shall be specific, clear and definite and shall include any exclusions or limitations as to their scope or duration. Copies of all guarantees or warranties shall be furnished to the buyer at the time the seller presents his bid as well as at the time of execution of the contract, except that separate guarantees or warranties of the manufacturer of products or materials may be furnished at the time such products or materials are installed.

12. Home improvement contract requirements—writing requirement: All home improvement contracts for a purchase price in excess of \$500.00, and all changes in the terms and conditions thereof shall be in writing. Home improvement contracts which are required by this subsection to be in writing, and all changes in the terms and conditions thereof, shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form and in understandable language all terms and conditions of the contract, including, but not limited to, the following:

i. The legal name and business address of the seller, including the legal name and business address of the sales representative or agent who solicited or negotiated the contract for the seller;

ii. A description of the work to be done and the principal products and materials to be used or installed in performance of the contract. The description shall include, where applicable, the name, make, size, capacity, model, and model year of principal products or fixtures to be installed, and the type, grade, quality, size or quantity of principal building or construction materials to be used. Where specific representations are made that certain types of products or materials will be used, or the buyer has specified that certain types of products are to be used, a description of such products or materials shall be clearly set forth in the contract;

iii. The total price or other consideration to be paid by the buyer, including all finance charges. If the contract is one for time and materials, the hourly rate for labor and all other terms and conditions of the contract affecting price shall be clearly stated;

iv. The dates or time period on or within which the work is to begin and be completed by the seller;

v. A description of any mortgage or security interest to be taken in connection with the financing or sale of the home improvement; and

vi. A statement of any guarantee or warranty with respect to any products, materials, labor or services made by the seller.

### 13. Disclosures and obligations concerning preservation of buyers' claims and defenses:

i. If a person other than the seller is to act as the general contractor or assume responsibility for performance of the contract, the name and address of such person shall be disclosed in the oral or written contract, except as otherwise agreed, and the contract shall not be sold or assigned without the written consent of the buyer;

ii. No home improvement contract shall require or entail the execution of any note, unless such note shall have conspicuously printed thereon the disclosures required by either State law (N.J.S.A. 17:16C-64.2 (consumer note)) or Federal law (16 C.F.R. section 433.2) concerning the preservation of buyers' claims and defenses.

Petition for Rulemaking: Denied.

See: 21 N.J.R. 3565(b).

Amended by R.1990 d.125, effective February 20, 1990.

See: 21 N.J.R. 3433(b), 22 N.J.R. 662(d).

Threshold amount at (a)12. changed from \$25.00 to \$100.00.

Amended by R.1995 d.618, effective December 4, 1995.

See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

Petition for Rulemaking: Denied.

See: 31 N.J.R. 2983(a).

Amended by R.2004 d.418, effective November 1, 2004 (operative November 9, 2004).

See: 36 N.J.R. 3506(a), 36 N.J.R. 4984(a).

In (a), substituted "\$ 500.00" for "\$ 200.00" following "in excess of" and inserted "and in understandable language" following "in legible form" in the introductory paragraph of 12.

### Law Review and Journal Commentaries

Predatory lending recognized as a basis for civil-rights claims. Mary P. Gallagher, 165 N.J.L.J. 405 (2001).

Consumer Fraud Act—Attorneys' Fees. Steven P. Bann, 138 N.J.L.J. No. 3, 45 (1994).

### Case Notes

Air conditioning subcontractor was not subject to provisions of Consumer Fraud Act (CFA) in suit against homeowner to recover full contract price for installation of air conditioning units into existing house, where owner engaged services of an architect to prepare plans and a general contractor, who hired the subcontractor, homeowner left it to the general contractor to make the choices as to who would perform air conditioning portion of project, and subcontractor dealt directly with homeowner for payment only, at general contractor's request, when price dispute arose, after the work had been completed. *Messeka Sheet Metal Co., Inc. v. Hodder*, 368 N.J. Super. 116, 845 A.2d 646.

Homeowner was equitably estopped from invoking regulation adopted under Consumer Fraud Act requiring all home improvement contracts in excess \$200 to be in writing; it was the homeowner who insisted that a written contract was unnecessary and because homeowner was in home improvement business and should have known applicable regulations. *D'Egidio Landscaping v. Apicella*, 337 N.J. Super. 252 (A.D.2001).

Homeowner was not entitled to treble damages for violation of consumer fraud regulation where there was no evidence of damages flowing from failure to specify starting and completion dates. *Branigan v. Level on the Level, Inc.*, 326 N.J. Super. 24, 740 A.2d 643 (N.J. Super. A.D. 1999).

Unoccupied property having both residential and commercial uses qualified as "residential or noncommercial property" under Consumer Fraud Act; Act precluded enforcement of alleged oral renovation contract between electrical subcontractor and shareholder of property's corporate owner. *Marascio v. Campanella*, 298 N.J. Super. 491, 689 A.2d 852 (A.D.1997).

"Unlawful" within meaning of Consumer Fraud Act; no person misled or deceived. *Cox v. Sears Roebuck & Co.*, 138 N.J. 2, 647 A.2d 454 (1994).

Merchant who agreed to perform home improvement work on residence engaged in "unlawful acts". *Cox v. Sears Roebuck & Co.*, 138 N.J. 2, 647 A.2d 454 (1994).

Violation of specific regulation; strict liability. *Cox v. Sears Roebuck & Co.*, 138 N.J. 2, 647 A.2d 454 (1994).

Homeowner sustained "ascertainable loss" within meaning of the Consumer Fraud Act. *Cox v. Sears Roebuck & Co.*, 138 N.J. 2, 647 A.2d 454 (1994).

Property was residential in character under Consumer Fraud Act, even though part was used as a tavern and liquor store. *Blake Const. v. Pavlick*, 236 N.J. Super. 73, 564 A.2d 130 (L.1989).

Regulations did not exceed Consumer Fraud Act authority. *Blake Const. v. Pavlick*, 236 N.J. Super. 73, 564 A.2d 130 (L.1989).

Home improvement contract did not comply with Consumer Fraud Act and was enforceable. *Blake Const. v. Pavlick*, 236 N.J. Super. 73, 564 A.2d 130 (L.1989).

Finding of N.J.A.C. 13:45A-16.2(a)6v violation upheld; total recovery under the Consumer Fraud Act for compensatory damages in small claims division court may not exceed \$1,000; judgment reduced to limit. *Wisser v. Kaufman Carpet Co., Inc.*, 188 N.J.Super. 574, 458 A.2d 119 (App.Div.1983).

Violation of Consumer Fraud Act. *Swiss v. Williams*, 184 N.J.Super. 243, 445 A.2d 486 (Dist. Ct. of Mercer Co.1982).

## CHAPTER 45C

### UNIFORM REGULATIONS

#### Authority

N.J.S.A. 5:8-30.2, 45:1-17(b) and 52:17B-122.

#### Source and Effective Date

R.2006 d.81, effective January 26, 2006.  
See: 37 N.J.R. 3268(a), 38 N.J.R. 1215(b).

#### Chapter Expiration Date

Chapter 45C, Uniform Regulations, expires on January 26, 2011.

#### Chapter Historical Note

Chapter 45C, Uniform Regulations, was adopted as R.1995 d.414, effective August 7, 1995. See: 26 N.J.R. 3128(a), 27 N.J.R. 2962(a).

Pursuant to Executive Order No. 66(1978), Chapter 45C, Uniform Regulations, was readopted as R.2000 d.356, effective August 2, 2000. See: 32 N.J.R. 2211(a), 32 N.J.R. 3328(b).

Chapter 45C, Uniform Regulations, was readopted by R.2006 d.81, effective January 26, 2006. See: Source and Effective Date. See, also, section annotations.

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#### SUBCHAPTER 1. LICENSEE DUTY TO COOPERATE AND TO COMPLY WITH BOARD ORDERS

##### 13:45C-1.1 Applicability, scope and definitions

(a) This subchapter shall apply to all licensees of any board, committee or sub-unit within the Division of Consumer Affairs.

(b) For the purpose of this subchapter, "licensee" shall mean any licensee, permittee, certificate holder or registrant of:

1. The Division of Consumer Affairs;
2. Any professional or occupational licensing board, committee, or other subunit of a board or committee located within the Division; or

##### 3. The Legalized Games of Chance Control Commission.

Amended by R.2000 d.356, effective September 5, 2000.  
See: 32 N.J.R. 2211(a), 32 N.J.R. 3328(b).

Rewrote the section.

Amended by R.2006 d.81, effective February 21, 2006.

See: 37 N.J.R. 3268(a), 38 N.J.R. 1215(b).

In (b)2, deleted reference to "Office of Professional/Occupational Boards"; deleted former (b)3; recodified former (b)4 as (b)3.

##### 13:45C-1.2 Licensee's duty to cooperate in investigative inquiries

(a) A licensee shall cooperate in any inquiry, inspection or investigation conducted by, or on behalf of, a board, the Director or the licensee's licensing agency into a licensee's conduct, fitness or capacity to engage in a licensed profession or occupation where said inquiry is intended to evaluate such conduct, fitness or capacity for compliance with applicable statutory or regulatory provisions.

(b) A licensee's failure to cooperate, absent good cause or *bona fide* claim of a privilege not identified in N.J.A.C. 13:45C-1.5 as unavailable, may be deemed by the board, the Director, or the licensing agency to constitute professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e) or the agency's enabling act and thus subject a licensee to disciplinary action pursuant to N.J.S.A. 45:1-21(h) or the agency's enabling act.

Amended by R.2000 d.356, effective September 5, 2000.

See: 32 N.J.R. 2211(a), 32 N.J.R. 3328(b).

Inserted (a) and (b) designations.

##### 13:45C-1.3 Specific conduct deemed failure to cooperate

(a) The following conduct by a licensee may be deemed a failure to cooperate and, therefore, professional or occupational misconduct and grounds for disciplinary action including, but not limited to, suspension or revocation of licensure:

1. The failure to timely respond to an inquiry to provide information in response to a complaint received concerning licensee conduct;

2. The failure to timely provide records related to licensee conduct;

3. The failure to attend any scheduled proceeding at which the licensee's appearance is directed. In the event that a licensee elects to retain counsel for the purpose of representation in any such proceeding, it shall be the licensee's responsibility to do so in a timely fashion. The failure of a licensee to retain counsel, absent a showing of good cause therefor, shall not cause an adjournment of the proceeding;

4. The failure to timely respond or to provide information requested pursuant to a demand under N.J.S.A.

45:1-18 or other applicable law or to provide access to any premises from which a licensed profession or occupation is conducted. Included within this paragraph shall be the failure to respond to any demand for statement or report under oath, the failure to permit the examination of any goods, ware or item used in the rendition of the professional or occupational service and the failure to grant access to records, books or other documents utilized in the practice of the occupation or profession;

5. The failure to answer any question pertinent to inquiry made pursuant to N.J.S.A. 45:1-18 or other applicable law unless the response to said question is subject to a *bona fide* claim of privilege;

6. The failure to make proper and timely response by way of appearance or production of documents to any subpoena issued pursuant to N.J.S.A. 45:1-18 or as may otherwise be provided by law; or

7. The failure to provide to the Board, the Director or the licensing agency timely notice of any change of address from that which appears on the licensee's most recent license renewal or application.

Amended by R.2000 d.356, effective September 5, 2000.

See: 32 N.J.R. 2211(a), 32 N.J.R. 3328(b).

In (a), substituted "and" for "or other good cause or" following "misconduct".

Amended by R.2006 d.81, effective February 21, 2006.

See: 37 N.J.R. 3268(a), 38 N.J.R. 1215(b).

In introductory paragraph (a), added "disciplinary action including, but not limited to,".

#### Law Reviews and Journal Commentaries

Constitutionality of Doctors' Office Searches Tested. Henry Gottlieb, 155 N.J.L.J. 69 (1999).

#### 13:45C-1.4 Failure to comply with Board orders as professional or occupational misconduct

The failure of a licensee to comply with an order duly entered and served upon the licensee or of which the licensee has knowledge shall be deemed professional or occupational misconduct.

#### 13:45C-1.5 Unavailability of privileges in investigative or disciplinary proceedings

(a) In any investigative inquiry conducted pursuant to N.J.S.A. 45:1-18 or in any disciplinary proceeding conducted pursuant to N.J.S.A. 45:1-21, or as may otherwise be authorized by law, the physician-patient privilege, psychologist-patient privilege, marriage and family therapist-client privilege, professional counselor-client privilege, associate counselor-client privilege, social worker-client privilege and the alcohol and drug counselor-client privilege shall be unavailable.

(b) Any statements or records otherwise subject to a claim of the stated privileges which may be obtained by the Board,

its agent or the Attorney General pursuant to N.J.S.A. 45:1-18 shall remain confidential and shall not be disclosed unless so ordered by a court of competent jurisdiction, the appropriate licensing board or the Office of Administrative Law in a contested case.

Administrative change.

See: 31 N.J.R. 547(b).

Amended by R.2000 d.356, effective September 5, 2000.

See: 32 N.J.R. 2211(a), 32 N.J.R. 3328(b).

Inserted (a) and (b) designations; and in (a), inserted a reference to the alcohol and drug counselor-client privilege.

#### 13:45C-1.6 Maintenance of and access to statements, records or other information that is subject to a privilege declared unavailable

(a) Any statements, records or other information which may be subject to any privilege declared unavailable in this subchapter shall be maintained in a secure place and manner by:

1. The evidence custodian within the Division of Consumer Affairs, Enforcement Bureau;

2. The professional or occupational licensing board and the committee or other subunit of a board or committee located within the Division which has a direct connection with, or a need for access to, the matter to which the statements, records or other information pertain; or

3. A Deputy Attorney General.

(b) Except as may be otherwise ordered as provided in the subchapter, access to statements, records or other information shall be afforded only to employees and agents of, and experts or other consultants retained by, the Attorney General, the Enforcement Bureau, or the Board or other subunit of the Division having a direct connection with, or a need for access to, the matter to which the statement, records or other information pertain.

(c) The statements, records or other information may be retained for the period of time during which an investigation remains open or until the completion of all administrative or judicial proceedings relating thereto, at which time they may be returned to the licensee or other person from whom they were obtained. In the absence of such licensee or other person, the statements, records or other information may be returned to the patient, where appropriate.

Amended by R.2000 d.356, effective September 5, 2000.

See: 32 N.J.R. 2211(a), 32 N.J.R. 3328(b).

In (a), deleted "acquired" following "information" in the introductory paragraph, and substituted a reference to subunits of boards and committees located within the Division for a reference to sub-agencies of the Division in 2; and in (b), substituted a reference to subunits of the Division for a reference to sub-agencies of the Division.

Amended by R.2006 d.81, effective February 21, 2006.

See: 37 N.J.R. 3268(a), 38 N.J.R. 1215(b).

In (b), added "and agents" and "; and experts or other consultants retained by,"; in (c), substituted "may" for "shall" throughout and deleted "only" following "retained."